



Land Valuers Licensing Board

newsletter

Update on national trade licensing

In July 2008, the Council of Australian Governments (COAG) agreed to establish a national trade licensing system for a range of economically important trades including land valuers. Under this system, once a licence is issued the licence holder will be able to work anywhere in Australia without the need for additional paperwork or cost.

The federal Department of Education, Employment and Workplace Relations is now funding a website and monthly e-newsletter to allow interested parties to keep up-to-date with the progress of these reforms.

The website: www.licensinglinenews.com provides extensive background and explanatory information on occupational licensing in Australia and the current reforms.

The e-newsletters contain the latest news on occupational licensing and regulatory matters which impact on training and assessment. To subscribe to this free monthly e-newsletter, visit: www.licensinglinenews.com/subscribe.

Subcontractors and valuations

A known industry practice exists whereby a firm or corporation enters into a contract with a client to provide a valuation and then subcontracts the job to a licensed valuer.

Section 23(2) of *Land Valuers Licensing Act 1978* (the Act) provides that, where a firm or corporation is receiving remuneration for land valuation services, 'every valuation of land supplied by that

firm or corporation [must be] made by an officer of the firm or corporation who is licensed under this Act'.

Where a firm or corporation subcontracts a job to a licensed valuer, the valuation is provided on the firm or corporation's letterhead. However, the subcontractor contracted to do the work is not actually an officer of the firm or corporation. The Board has investigated whether this practice complies with the the Act.

It appears that neither the contracted valuer nor the firm or corporation who engaged the valuer would be committing an offence against the Act, as the Act does not impose a penalty for breaches of s. 23(2). It could be argued that because s. 23(2) requires a firm or corporation to use only valuers that are officers of that firm or corporation, the practice of subcontracting should not be permitted.

Due to this ambiguity and the fact that the valuation is being undertaken by a licensed valuer, albeit under subcontract, the Board is not presently taking any enforcement action over this practice and is seeking to have the Act amended to accommodate sub-contractors.

Land valuers should be mindful of their employment status and understand their taxation, professional indemnity insurance and other business related matters.

This newsletter is provided by the Land Valuers Licensing Board and is intended as a guide only. For more detailed information please refer to the relevant legislation or seek legal advice.



Land Valuers Licensing Board

Locked Bag 14, Cloisters Square, Perth WA 6850

General Enquiries: 1300 30 40 54

Fax: (08) 9282 0559

www.commerce.wa.gov.au/landvaluers

Unsupervised property inspections

In accordance with section 23(3) of the *Land Valuers Licensing Act 1978*, there are two categories of person who may lawfully perform and discharge, under the supervision of a licensed valuer, functions and duties connected with the valuation of land.

Those two categories are:

- a) a student who is undertaking a prescribed course of study in the valuation of land; or
- b) a person who is employed as an assistant to a licensed valuer.

When a student in category (a) ceases to study, but is then an employed person in category (b), there is no change to the functions and duties that person may lawfully perform and discharge under the supervision of a licensed valuer.

In accordance with Rule 1.5 of the Licensed Valuers Code of Conduct, property inspections may only be undertaken by unlicensed students or Graduate trainees with the written agreement of the client. The fact that the person conducting the inspection is unlicensed must also be disclosed in the valuation report.

Licensed valuers are reminded that Rule 1.13 of the code provides that a valuer shall properly supervise and control the work of unlicensed persons engaged in assisting in the valuation work and be responsible for any work performed by unlicensed persons on behalf of the valuer.

Increase to triennial licence fees

The Board has been advised that triennial licence fees for land valuers will increase from \$660 to \$688 from 1 July 2009.

Risk management programs

Rule 1.2 of the Licensed Valuers Code of Conduct provides that a land valuer shall maintain a risk management program.

It is acknowledged that risk management programs will vary based on the specific nature, size and complexity of the valuation business. However, it is expected risk management programs will include the following at a minimum:

- the existence of documented compliance procedures including an internal dispute resolution process;
- training systems for employees;
- the maintenance of appropriate professional indemnity insurance; and/or
- participation in continuing professional development.

The Board encourages all valuers to attend risk management training. Risk management courses and other continuing professional development programs are offered by a number of organisations, including the Australian Property Institute. Details of course providers can be found at www.commerce.wa.gov.au/landvaluers.

Email notification

The Board reminds valuers that it is circulating electronic notices as matters of interest arise, including general licensing matters, relevant case studies and legislative/policy changes.

Licensees and other parties interested in receiving these notices are invited to send their email address to fvi@commerce.wa.gov.au

This document is available on request in other formats to assist people with special needs.